

Order

Michigan Supreme Court
Lansing, Michigan

October 3, 2008

Clifford W. Taylor,
Chief Justice

136700 & (56)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DEPARTMENT OF ENVIRONMENTAL
QUALITY,

Plaintiff-Appellee,

v

SC: 136700
COA: 272652
Ingham CC: 89-064557-CE

REXAIR, INC.,
Defendant-Appellant.

On order of the Court, the motion for leave to file brief amicus curiae is GRANTED. The application for leave to appeal the May 8, 2008 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and we REINSTATE the August 7, 2006 order of the Ingham Circuit Court. The Court of Appeals erred by holding that the circuit court lacked the inherent authority, as well as the authority under the consent judgment, the Michigan Rules of Court, and MCL 600.611, to dismiss with prejudice the dispute resolution proceeding initiated by the plaintiff and to award the defendant costs and attorney fees. The Court of Appeals further erred by disregarding the undisputed facts in the record that supported the circuit court's findings and by failing to accord the proper deference to the circuit court's determination that the plaintiff had invoked the circuit court's jurisdiction for an improper purpose and abused the dispute resolution process. *Maldonado v Ford Motor Co*, 476 Mich 372, 376 (2006).

CAVANAGH and KELLY, JJ., concur in the result.

WEAVER, J. (*concurring in the result only*).

I concur only with the decision to reverse the judgment of the Court of Appeals and reinstate the August 7, 2006, order of the Ingham Circuit Court.

In *Maldonado v Ford Motor Co*, 476 Mich 372, 426-435 (dissenting opinion by Weaver, J.), I disagreed with the majority opinion for the reasons stated in my dissent. Therefore, I find the citation to *Maldonado* in this order to be unnecessary.



0930

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 3, 2008

Corbin R. Davis

Clerk